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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,396	01/31/2001	David J. Lyon	M-9897 US	3069
23640	7590	04/05/2007	EXAMINER	
BAKER BOTTS, LLP 910 LOUISIANA HOUSTON, TX 77002-4995			MEINECKE DIAZ, SUSANNA M	
			ART UNIT	PAPER NUMBER
			3694	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	04/05/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/774,396	LYON ET AL.	
	Examiner	Art Unit	
	Susanna M. Diaz	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 March 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,8,9 and 12-14 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5,8,9 and 12-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 27, 2007 has been entered.

Claim 7 has been cancelled.

Claim 1 has been amended.

Claims 1-5, 8, 9, and 12-14 are pending.

Response to Arguments

2. Applicant's arguments filed March 27, 2007 have been fully considered but they are not persuasive.

Applicant identifies various features attributed to the "delivery scheduling module" based on the disclosure in the specification (pages 5-6 of Applicant's response); however, the Examiner would like to point out that these features are not part of a special definition of the "delivery scheduling module." Therefore, these features will not be read into the metes and bounds of the "delivery scheduling module," as recited in the claims.

Applicant argues, "The cited portions of Lilly describe material availability information and the scheduling of work orders, but do not teach or suggest a schedule for material delivery that is generated by scheduling a delivery of material to manufacture each item and adding the delivery of the material to the material delivery schedule." (Page 6 of Applicant's response) The Examiner respectfully disagrees. Lilly requires resource availability information and material availability information in order to schedule a work order (col. 5, lines 24-30; col. 6, line 65 through col. 7, line 7); therefore, it is understood that the work order cannot be scheduled until the needed resources and materials are delivered (i.e., made available). "Delivery" of an item does not necessarily require that a truck or other vehicle transport the item over great distances. Mere release of inventory into an available supply of inventory or movement of this needed inventory to the appropriate manufacturing line also constitutes delivery of an item/inventory. In Lilly, the scheduling of both work as well as the needed materials go hand-in-hand. Before work can be scheduled, an understanding of when the materials will be delivered (or made available) is required, thereby making a schedule of delivery of these materials at the very least implicit to Lilly's overall work order scheduling process.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3694

4. Claims 8, 9, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8, 9, 12, and 13 are dependent from cancelled claim 7, which is improper. For examination purposes, it will be assumed that claims 8, 9, 12, and 13 are dependent from claim 1 instead.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 8, 9, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lilly et al. (U.S. Patent No. 5,787,000) in view of Layden ("A Rapidly Changing Landscape") and further in view of Manugistics5, as disclosed in "Manugistics Introduces Industry's Only Extended Supply Chain Management Solution."

Lilly discloses a method of scheduling a manufacturing line comprising:

[Claim 1] generating a work schedule and a material delivery schedule in response to an outstanding customer order that includes at least one item, wherein the step of generating the work schedule includes the step of scheduling work to manufacture each item by an operation on a manufacturing line, wherein the step of generating the work

Art Unit: 3694

schedule comprises adding work to the work schedule (col. 9, lines 1-25), wherein the step of generating the delivery schedule includes the step of scheduling a delivery of material to manufacture each item, wherein the scheduling of the delivery includes scheduling the delivery of the material prior to the time the material is needed according to the work schedule, and wherein the step of generating the material delivery schedule comprises adding the delivery of the material from an available inventory of material to an operation of at least one operation on a manufacturing line to the material delivery schedule (col. 4, lines 33-44 -- Each customized order from a customer is integrated into a work schedule; col. 5, lines 24-67; col. 6, line 65 through col. 7, line 22 -- Resource availability, material availability, and work order information are all used to schedule the delivery of needed materials as well as to schedule the ultimate assembly of the ordered product; col. 8, lines 33-67 -- If all materials are currently available, the work order may be scheduled. Otherwise, the work order may need to be rescheduled based on the lead time of the needed materials; col. 9, lines 8-25 -- Work orders may be scheduled by priority; Columns 9-15 discuss the forward and backward scheduling algorithms that may be used to schedule work orders);

providing the material delivery schedule for the delivery of the material to manufacture each item according to the material delivery schedule (col. 5, lines 24-67; col. 6, line 65 through col. 7, line 22 -- Resource availability, material availability, and work order information are all used to schedule the delivery of needed materials as well as to schedule the ultimate assembly of the ordered product; col. 8, lines 33-67 -- If all materials are currently available, the work order may be scheduled. Otherwise, the

work order may need to be rescheduled based on the lead time of the needed materials);

wherein one or more items are manufactured on the manufacturing line according to the work schedule (abstract; col. 4, lines 33-37).

As per claim 1, Lilly does not expressly teach that the incorporation of the step of providing the work schedule to the manufacturing line, substantially immediately after generating the work schedule, for initiating work to mass produce each of the at least one item according to the work schedule nor that all recited steps are repeated a plurality of times during a manufacturing shift. However, Layden discusses order-driven manufacturing scheduling techniques (¶ 3) in which dynamic plant management is employed (¶ 5), thereby allowing dynamic factories to be “run without a plan at the floor level; orders are launched as soon as they arrive.” (¶ 5) Layden’s disclosed scheduling techniques are based upon well-known scheduling theories, including “backward pass” and “forward pass” (¶ 26), both of which are utilized by Lilly. Layden’s scheduling techniques allow one to instantly communicate orders to the shop floor, scheduling them as they arrive (¶¶ 5, 9). Layden states, “Integration of scheduling and material planning balances plantwide priorities against the need for optimal workstation sequencing. The order-of-work is not generated until the operation start time.” (¶ 11) Material and resource constraints are taken into account in order to perform rapid resynchronization of customer orders (¶ 13). This allows for the immediate release of new orders to the floor in real time upon acceptance and the implementation of last-

minute customer order changes as well as the insertion of priority orders (¶ 14).

Layden's rapid order flow performs the steps of "reserving resources and material, triggering reorders, and continuously adjusting for status changes" (¶ 11). Clearly, Layden bases its principles on the common scheduling techniques utilized by Lilly (e.g., using forward and backward scheduling algorithms to incorporate material and resource availability and generate a production schedule) and enhances them by providing the work schedule to the manufacturing line, substantially immediately after generating the work schedule, for initiating work to mass produce each item according to the work schedule and repeating all recited steps a plurality of times during a manufacturing shift, thereby making the order-driven manufacturing process more efficiently and effectively responsive to new customer orders, priority orders, last-minute customer changes, etc. Consequently, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement these enhancements taught by Layden with the details of Lilly's production planning and scheduling system in order to reap these benefits (i.e., making the order-driven manufacturing process more efficiently and effectively responsive to new customer orders, priority orders, last-minute customer changes, etc.).

Further regarding claim 1, the Lilly-Layden combination does not expressly teach that materials delivered from available inventory are selected from an in-transit inventory. However, "Manugistics Introduces Industry's Only Extended Supply Chain Management Solution" discloses some of the functionality of Manugistics5, which is a Web-enabled supply chain planning and decision-making tool. "By providing real-time

visibility into information, including consumer demand, in-transit inventories, manufacturing schedules and plans, and shipment status across their supply chains, as well as their channel partners' supply chains, Manugistics5 will allow companies to make improved supply chain decisions." (Manugistics5: ¶ 1) Users of Manugistics5 "can 'point-and-click' their way from a high-level enterprise view to a shop floor schedule and obtain updated information about the entire supply chain channel, from suppliers, plants and distribution centers, to retail activity...With the Supply Chain Navigator, planners can determine the most profitable supply chain strategy for sourcing, production, inventory, and vendor/carrier commitments, based on the real-world and real-time constraints of the supply chain." (Manugistics5: ¶ 5) Manugistics5's floor schedule is integrated with inventory data in order to facilitate decision-making (Manugistics5: ¶¶ 5, 9) while inventory management capabilities include the ability to monitor in-transit inventory (Manugistics5: ¶ 7). Since the Lilly-Layden combination is applied to an order-driven manufacturing environment (in which perfect timing of the arrival of needed materials is crucial for the reasons discussed above) and Manugistics5 facilitates real-time decision-making in a supply chain, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the Lilly-Layden combination to schedule the delivery of materials based on available inventory, including in-transit inventory, in order to facilitate the prevention of and/or quick resolution of conflicts with respect to product availability by allowing users "to make the best scheduling decisions possible" (as suggested by

Art Unit: 3694

"Manugistics Introduces Industry's Only Extended Supply Chain Management Solution," see ¶ 6), thereby improving the overall efficiency of the supply chain.

[Claim 2] Regarding claim 2, since the Lilly-Layden combination teaches the details of a production planning and scheduling system that resynchronizes the production schedule and ordering of materials in real-time responsive to new customer orders, priority orders, last-minute customer changes, etc., the Examiner asserts that the limitation "wherein the scheduling of the delivery of the material prior to the time the material is needed according to the work schedule includes scheduling the delivery of the material at most one repetition prior to the time the material is needed" is addressed by the Lilly-Layden combination.

[Claim 3] Lilly discloses that the material is delivered from an available inventory of material at a material source (col. 5, lines 24-67; col. 8, lines 33-67 -- Inherently, the entity that makes a material available can be viewed as a material source).

[Claims 4, 5] Since Lilly teaches that a material availability is assessed by determining when a supply will be received into inventory (col. 8, lines 33-67), this implies that the needed materials may be ordered from an external inventory, including a supplier inventory. By definition, an entity that supplies another entity with materials is a supplier of those materials.

[Claim 8] Lilly discloses that the adding the work to the work schedule comprises adding the work to the work schedule at a start time; and the adding the delivery to the material delivery schedule comprises adding the delivery to the material delivery schedule at a material delivery time prior to the start time (col. 4, lines 33-44 -- Each

Art Unit: 3694

customized order from a customer is integrated into a work schedule; col. 5, lines 24-67; col. 6, line 65 through col. 7, line 22 -- Resource availability, material availability, and work order information are all used to schedule the delivery of needed materials as well as to schedule the ultimate assembly of the ordered product; col. 8, lines 33-67 -- If all materials are currently available, the work order may be scheduled. Otherwise, the work order may need to be rescheduled based on the lead time of the needed materials; col. 9, lines 8-25 -- Work orders may be scheduled by priority; Columns 9-15 discuss the forward and backward scheduling algorithms that may be used to schedule work orders);

[Claim 9] Lilly discloses determining an expected availability of the identified material from the available inventory and wherein the adding the work to the work schedule includes adding the work at a start time after the expected availability of the identified material (col. 4, lines 33-44 -- Each customized order from a customer is integrated into a work schedule; col. 5, lines 24-67; col. 6, line 65 through col. 7, line 22 -- Resource availability, material availability, and work order information are all used to schedule the delivery of needed materials as well as to schedule the ultimate assembly of the ordered product; col. 8, lines 33-67 -- If all materials are currently available, the work order may be scheduled. Otherwise, the work order may need to be rescheduled based on the lead time of the needed materials; col. 9, lines 8-25 -- Work orders may be scheduled by priority; Columns 9-15 discuss the forward and backward scheduling algorithms that may be used to schedule work orders).

Art Unit: 3694

[Claim 12] Lilly discloses that the adding the work to the work schedule comprises adding the work to the work schedule according to a priority of the customer order (col. 5, lines 62-63; col. 9, lines 12-19).

[Claim 13] Lilly discloses that the adding the work to the work schedule comprises adding the work to the work schedule according to an order date of the customer order (Columns 9-15 discuss the forward and backward scheduling algorithms that may be used to schedule work orders).

[Claim 14] Lilly discloses that the item is a commodity (col. 4, lines 35-38).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaneko et al. (U.S. Patent No. 5,278,750) – Discloses a production schedule making method that takes into account a truck delivery schedule and a material, quantity, need-by time, and delivery location when scheduling deliveries in a just-in-time manufacturing environment.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susanna Diaz
Susanna M. Diaz
Primary Examiner
Art Unit 3694

March 28, 2007